

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

J. BONAFEDE CO., INC.

**on behalf of itself and all others
similarly situated,**

Plaintiff,

v.

**DEL MONTE FRESH PRODUCE
COMPANY and DEL MONTE
FRESH PRODUCE, N.A., INC.,**

Defendants.

Civil Action No. 03-cv-12642 JLT

NOTICE OF VOLUNTARY DISMISSAL

Pursuant to Fed. R. Civ. P. Rule 41(a)(1)(i), Plaintiff, J. Bonafede Co., Inc., hereby voluntarily dismisses this action without prejudice as to all Defendants.

An action purporting to represent the same class of purchasers of pineapples from the Defendants as that pleaded by Plaintiff in this action was previously filed in the United States District Court for the Southern District of New York on December 24, 2003, styled *American Banana Co., Inc. v. Del Monte Fresh Produce Co., Inc., et al.*, No.03-cv-10230(RMB).

Both actions have been reported in the national media and the trade press, due to a press release issued by Defendants, and the class has notice of their pendency.

Plaintiff J. Bonafede Co., Inc. has not sought or received any benefit from Defendants in exchange for the dismissal of this action. Indeed, Plaintiff will proceed

with prosecution of Plaintiff's claims in the United States District Court for the Southern District of New York.

Accordingly, there is no risk of prejudice to absent class members, and notice to the putative class pursuant to F.R.C.P. Rule 23 (e) is not required. *Culver v. City of Milwaukee, et al.*, 277 F. 3d 908, 913-915 (7th Cir. 2002); *Navarro-Ayala v. Hernandez-Colon*, 951 F. 2d 1325, 1336-37 (1st Cir. 1991).

Dated: January 16, 2004

**BERMAN DEVALERIO PEASE
TABACCO BURT & PUCILLO**

/s/ Peter A. Pease

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Counsel for Plaintiff

CERTIFICATE OF SERVICE

I, Peter A. Pease, hereby certify that on January 16, 2004, a true and correct copy of the foregoing Notice of Voluntary Dismissal was served upon all parties by serving the following by First Class U.S. Mail:

Del Monte Fresh Produce Company
105 Shawmut Road
Canton, MA 02021

Del Monte Fresh Produce, N.A., Inc.
105 Shawmut Road
Canton, MA 02021

/s/Peter A. Pease
Peter A. Pease